

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOB E. AYALA)
)
) Case No. 2017 C 05621
Plaintiff,)
)
) Judge Rebecca R. Pallmeyer
v.)
)
) Magistrate Judge Susan E. Cox
CPD Officer Corona, CPD Officer Delaney,)
CPD Officer Houlihan, CPD Officer Iza,)
CPD Officer MacNiff, CPD Officer Konior,)
CPD Officer Brown,)
)
Defendants.)

DEFENDANTS' MOTION FOR RECONSIDERATION

Defendants Sergio Corona, Ryan Delaney, Sean Houlihan, Francisco Iza, Colin MacNiff, Scott Konior and Patrick Brown, by one of their attorneys, Christine K. Wee, Assistant Corporation Counsel for the City of Chicago, respectfully moves this Honorable Court to reconsider its July 17, 2018 ruling on Plaintiff's Motion to Compel the production of the Registered Confidential Informant File ("RCI"). In support thereof, Defendants state as follows:

1. Per the Court's instructions from the September 27, 2018 status hearing, the Defendants are filing this Motion for Reconsideration.
2. On July 17, 2018 the Court ruled that Plaintiff's motion to compel (Docket #35) was granted in part and denied in part. (Docket #37)
3. On July 17, 2018, the Court ruled specifically with respect to the RCI file, the Defendants "to say, no, you're only getting X and Y and disclose that. And if there is further dispute, you are welcome to come in and tell us." (See Transcript from the July 17, 2018 Hearing, Exhibit A, 9:22-24)

4. Plaintiff stated at the July 17, 2018 hearing that “As I understand it, the defendants haven’t reviewed the file of the informant. I don’t know that counsel has any actual information about the informant. There is no showing here that there is any risk to the informant from revealing anything.” (See Exhibit A, 3:20-24)

5. Per the Court’s July 17, 2018 ruling, Defendants had an opportunity to review the Registered Confidential Informant file and was informed by Chicago Police Officer Barbara Jotautas, who is assigned to maintain and secure the Confidential Informant files, that any disclosure of information within the RCI file specific to this matter will be a “real and present safety risk” to the RCI. (See Exhibit B, Officer Jotautas Affidavit, paragraph 8)

6. As a result of Defendants’ review of the RCI file, Officer Jotautas’ Affidavit was provided to Plaintiff instead of any information contained within the RCI file because of the safety risk that would pose to the RCI. (See Exhibit B)

7. The Court on July 17, 2018 stated: “But Mr. Flaxman tells us it’s a registered informant. There is probably some information about the individual’s previous reliability and under what circumstances. It would be relevant, it seems to me, to the defense as well. So I am sure some of that material you are going to want disclosed.” (See Exhibit A, 9:25; 10:1-6)

8. Officer Jotautas further stated in her affidavit that there were “36 occasions in which the Confidential Informant has provided reliable information. By reliable I mean, the Confidential Informant voluntarily provided accurate information about criminal activity resulting in the seizure or recovery of contraband, or currency and/or arrest of an offender.” (See Exhibit B, paragraphs 6 and 7)

9. After Defendants' review of the RCI file, and given the safety risk the RCI would face should any information is disclosed to the Plaintiff within his/her file, Defendants are only able to provide the affidavit of Officer Jotautas.

10. In the alternative, should the Court order the Defendants to produce the RCI file to the Plaintiff, Defendants respectfully request to produce Officer Jotautas to the Court for an *in camera* review of the contents of the RCI file for this matter.

WHEREFORE, Defendants respectfully request this Honorable Court grant Defendants' Motion to Reconsider its ruling on Plaintiff's Motion to Compel, specifically to bar disclosure to Plaintiff on any information contained within the RCI file or in the alternative, for an in camera review with Officer Jotautas on the contents of the RCI file, and for such further relief in favor of the Defendants that the Court deems reasonable and just.

Respectfully submitted,

/s/ Christine K. Wee
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NOTICE OF FILING AND CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on this 27th day of September 2018, I have caused to be e-filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division **DEFENDANTS' MOTION FOR RECONSIDERATION ON THE COURT'S RULING ON PLAINTIFF'S MOTION TO COMPEL**, copies of which are herewith served upon you.

I hereby certify that true and accurate copies of this NOTICE OF FILING and DEFENDANTS' MOTION FOR RECONSIDERATION ON THE COURT'S RULING ON PLAINTIFF'S MOTION TO COMPEL the attached were delivered to Plaintiff via his counsel of record at the address shown above and to all other counsel of record on this 27th day of September 2018 by the Court's CM/ECF system which causes a true and accurate copy of all documents filed to be delivered by electronic means to all parties/attorneys of record.

/s/ Jennifer K. Bagby

Jennifer K. Bagby
Chief Assistant Corporation Counsel